

Message Text

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ACTION ARA-10

INFO OCT-01 ISO-00 EB-07 COME-00 TRSE-00 OES-06 INT-05 L-03

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SS-15 NSC-05 NSCE-00 SSO-00 USIE-00 INRE-00 AID-05

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TO SECSTATE WASHDC NIACT IMMEDIATE 1927

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PASS TREASURY/PUBLIC AFFAIRS

FOR NSC/DAVID LAZAR; STATE/SPOKESMAN ROBERT FUNSETH: ARA/SHLAUDEMAN
FROM MAW

E.O. 11652: N/A

TAGS: BDIS, EINV, EIND, EMIN, PFOR, PE

SUBJECT: MARCONA - PRESS GUIDANCE - QANDAS

BELOW ARE LISTED POSSIBLE QUESTIONS AND SUGGESTED
ANSWERS ON MARCONA SETTLEMENT FOR USE ON IF-ASKED
BASIS BY STATE AND TREASURY DEPARTMENT PRESS OFFICERS
IN SUPPORT OF WHITE HOUSE STATEMENT TO BE ISSUED 11:00
A.M. THURSDAY, SEPTEMBER 23.

Q.1. HOW LONG HAVE THE NEGOTIATIONS BEEN GOING ON?

A. AFTER THE COMPANY WAS EXPROPRIATED ON JULY
24, 1975, NEGOTIATIONS TOOK PLACE BETWEEN MARCONA MINING
AND THE PERUVIAN GOVERNMENT. AFTER AN IMPASSE BETWEEN
THE COMPANY AND THE GOVERNMENT OF PERU, THE U.S. GOVERN-
MENT, AT THE REQUEST OF BOTH PARTIES, OFFERED ITS
GOOD OFFICES IN OCTOBER 1975 TO HELP INSURE AN EQUITABLE

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SOLUTION COMPATIBLE WITH THE TRADITIONALLY GOOD RELATIONS

BETWEEN THE U.S. AND PERU, AND IN CONFORMITY WITH U.S. LAW WHICH REQUIRES PROMPT, ADEQUATE AND EFFECTIVE COMPENSATION.

THE U.S. GOVERNMENT NEGOTIATING TEAM WAS COMPOSED OF REPRESENTATIVES OF THE DEPARTMENT OF STATE AND THE TREASURY DEPARTMENT. IN THE FIRST PHASE, FROM OCTOBER 1975 TO MARCH OF THIS YEAR, THE TEAM WAS HEADED BY DEPUTY ASSISTANT SECRETARY OF STATE ALBERT FISHLOW. IN APRIL, PRESIDENT FORD NAMED CARLYLE E. MAW AS HIS PERSONAL REPRESENTATIVE IN THE NEGOTIATIONS.

Q.2. SINCE THE NEGOTIATIONS DRAGGED ON FOR OVER A YEAR, WAS THERE ANY THOUGHT OF IMPOSING SANCTIONS OR AN ECONOMIC BLOCKADE?

A. THE QUESTION OF SANCTIONS OBVIOUSLY AROSE, BECAUSE THE U.S. GOVERNMENT CANNOT IGNORE OUR LAW. BUT BECAUSE THE NEGOTIATIONS PROCEEDED IN GOOD FAITH, THE U.S. SUPPORTED PERU'S APPLICATION FOR DEVELOPMENT ASSISTANCE AND CREDITS THROUGH THE WORLD BANK AND THE INTERAMERICAN DEVELOPMENT BANK. THE WORLD BANK PROVIDED THREE LOANS TOTALING ABOUT 140 MILLION DOLLARS SINCE LAST JULY WHILE THE IDB PROVIDED FOUR LOANS TOTALING ABOUT 90 MILLION DOLLARS. IN THE SAME PERIOD THE U.S. PROVIDED A 28 MILLION DOLLAR CREDIT FOR AGRICULTURAL COMMODITIES. THE PURPOSE OF THE NEGOTIATIONS AND THEIR COMPLEXITY DERIVED FROM THE FACT THAT THE TWO GOVERNMENTS HAD TO RECONCILE CONFLICTS OF LAW. PERU HAS ITS LAW WHICH MUST BE RESPECTED AND THE U.S. MUST MEET ITS LEGAL OBLIGATIONS. AN ECONOMIC BLOCKADE WAS NOT PROPOSED AND NEEDLESS TO SAY WAS NOT IMPLEMENTED.

Q.3. WHAT EXACTLY DOES THE AGREEMENT PROVIDE?

A. FIRST OF ALL, THE SETTLEMENT PROVIDES FOR A PAYMENT TO THE MARCONA CORPORATION OF 37 MILLION DOLLARS IN CASH AND, SECONDLY, A SALES CONTRACT WHICH WILL SIMULTANEOUSLY REDUCE THE STOCKPILED ORE AT THE MINE AND PROVIDE THE GOVERNMENT OF PERU WITH FOREIGN EXCHANGE IN LIMITED OFFICIAL USE

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EXCESS OF THE VALUE OF THE COMPENSATION AGREEMENT. AT THE SAME TIME, THE MARCONA CORPORATION WILL FULFILL ITS OBLIGATIONS UNDER THE TRANSPORTATION CONTRACT WHICH WAS SIGNED AS PART OF THE INTERIM AGREEMENT OF DECEMBER 11, 1975. THE GOVERNMENT OF PERU ESTIMATES THE VALUE OF THE ORE SALES CONTRACT TO MARCONA AT APPROXIMATELY 22.4 MILLION DOLLARS. THE ORE SALES CONTRACT MAY IN FACT PRODUCE COMPENSATION

OF MORE OR LESS THAN THAT AMOUNT; DEPENDING ON FUTURE ORE PRICES.

Q.4. SINCE THE SETTLEMENT IS NOT SOLELY A CASH SETTLEMENT, BUT ALSO INCLUDES AN IRON ORE SALES CONTRACT, IS THERE ANYTHING WITHIN THE CONTRACT WHICH MIGHT BE TO THE ADVANTAGE OF ONE OF THE PARTIES?

A. THERE ARE NO HIDDEN ELEMENTS. WE--THE GOVERNMENT OF PERU AND THE U.S.--BELIEVE THAT A JUST AND LASTING SETTLEMENT MUST BE FULLY PUBLIC AND DEFENSIBLE IN BOTH COUNTRIES AND THAT WE HAVE SUCH A SETTLEMENT.

Q.5. ISN'T IT UNUSUAL TO HAVE THE 37 MILLION DOLLARS PORTION OF THE PACKAGE IN THE FORM OF A PROMISSORY NOTE WITH NO FIXED MATURITY DATE?

A. PERU STANDS READY TO MAKE PAYMENT ON THE NOTE. THE BILATERAL AGREEMENT BETWEEN OUR GOVERNMENTS CONFIRMS THE OBLIGATION TO MAKE THE CASH PAYMENT. PERU, LIKE SOME OTHER COUNTRIES, HAS BEEN FACED WITH A SERIOUS BALANCE OF PAYMENTS PROBLEM. PERU IS NEGOTIATING, AND, WE EXPECT, WILL CONCLUDE SHORTLY, A LOAN WITH COMMERCIAL BANKS WHICH WILL HELP IMPROVE ITS BALANCE OF PAYMENTS SITUATION. WE BELIEVE PERU WILL CONTINUE TO MEET ITS INTERNATIONAL OBLIGATIONS.

Q.6. DID THE U.S. GOVERNMENT PRESSURE THE U.S. BANKS TO HOLD UP THEIR LOANS TO PERU UNTIL A SATISFACTORY SETTLEMENT OF THE MARCONA ISSUE WAS MADE?

A. NO. MAJOR COMMITMENTS OF FUNDS BY ANY BANK ARE LIMITED OFFICIAL USE

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ONLY MADE AFTER A FULL AND INDEPENDENT STUDY OF THE FINANCIAL AND POLITICAL SITUATION OF A COUNTRY. THE PRIVATE COMMERCIAL BANKS IN ASSESSING THE CREDIT-WORTHINESS OF ANY COUNTRY TAKES INTO ACCOUNT, AMONG OTHER THINGS, THE INVESTMENT CLIMATE. THE SETTLEMENT OF THIS DISPUTE SHOULD HAVE A FAVORABLE IMPACT ON THE INVESTMENT CLIMATE IN PERU AND THEREBY IMPROVE PERU'S CHANCES OF OBTAINING ADDITIONAL EXTERNAL FINANCING.

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ACTION ARA-10

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TO SECSTATE WASHDC NIACT IMMEDIATE 1928

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PASS TREASURY/PUBLIC AFFAIRS

FOR NSC/DAVID LAZAR; STATE/SPOKESMAN ROBERT FUNSETH: ARA/SHLAUDEMANN
FROM MAW

Q.7. DID THE U.S. BANKS PRESSURE PERU TO TAKE RESTRICTIVE ECONOMIC POLICY MEASURES TO STABILIZE THE ECONOMY?

A. THE GOVERNMENT OF PERU DECIDED ON ITS OWN TO TAKE A NUMBER OF SIGNIFICANT AND COURAGEOUS ECONOMIC MEASURES DURING THE PAST FEW MONTHS. OBVIOUSLY, PERUVIAN ACTIONS IN THIS AREA WILL IMPROVE THE ABILITY OF COMMERCIAL BANKS TO SUPPORT PERUVIAN STABILIZATION EFFORTS.

Q.8. ISN'T IT A CONTRADICTION FOR PERU TO PAY FOR THE EXPROPRIATION OF MARCONA WITH MONEY THAT IS INTENDED TO HELP THEIR BALANCE OF PAYMENTS DEFICIT?

A. THERE IS NO CONTRADICTION BECAUSE THE MARCONA SETTLEMENT WILL IMPROVE THEIR FOREIGN EXCHANGE EARNINGS, SINCE MARCONA WILL BE SELLING IRON ORE FOR PERU IN THE DIFFICULT-TO-PENETRATE U.S. MARKET. AT
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THE SAME TIME, THE SETTLEMENT IMPROVES THE INVESTMENT CLIMATE WHICH MAKES PRIVATE CAPITAL FLOWS FROM ABROAD MORE LIKELY.

Q.9. DOESN'T THIS SETTLEMENT REPRESENT A CHANGE IN THE BASIC PHILOSOPHY OF THE PERUVIAN REVOLUTION?

A. SINCE THIS SETTLEMENT CONFIRMS THE NATIONALIZATION OF AN IMPORTANT MINING COMPLEX AND CARRIES OUT A PERUVIAN LAW ADOPTED IN JULY 1975, IT WOULD APPEAR THAT THE BASIC OBJECTIVES OF THE GOVERNMENT OF PERU CONTINUE. WHAT THE SETTLEMENT DOES SUGGEST IS THAT THERE ARE NO IRRECONCILABLE DIFFERENCES BETWEEN OUR SYSTEM AND THEIRS.

Q.10. DOES THIS TYPE OF NEGOTIATION WHERE THE U.S. GOVERNMENT IS DIRECTLY NEGOTIATING WITH ANOTHER GOVERNMENT ABOUT THE EXPROPRIATION OF A PRIVATE CORPORATION INDICATE A NEW TREND?

A. NOT REALLY. EACH CASE IS LOOKED AT ON ITS OWN MERITS AND WE WOULD NOT PRECLUDE THE POSSIBILITY OF THIS TYPE OF NEGOTIATION IN OTHER CASES.

Q.11. DOES THE ASSIGNMENT OF A PRESIDENTIAL REPRESENTATIVE INDICATE A TOUGHENING OF THE U.S. POSITION?

A. NO. THIS IS NOTHING NEW. WE HAVE BEEN INVOLVED IN THE PAST IN SIMILAR NEGOTIATIONS IN PERU.

Q.12. DOESN'T THE SETTLEMENT LEAVE OPEN THE POSSIBILITY THE MARCONA COULD MAKE A LOT MORE THROUGH THE SALES ASPECT THAN INDICATED IN THE AGREEMENT?

A. YES, BUT IT COULD ALSO MAKE LESS DEPENDING ON THE FUTURE PRICES OF IRON ORE IN THE UNITED STATES.

Q.13. IS THE U.S. GOVERNMENT SATISFIED WITH THE SETTLEMENT?

A. THE U.S. GOVERNMENT CONSIDERS THE PACKAGE TO LIMITED OFFICIAL USE

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BE "PROMPT, ADEQUATE AND EFFECTIVE COMPENSATION" WITHIN THE MEANING OF U.S. LAW.

Q.14. ARE THE MARCONA CORPORATION AND THE PERUVIAN GOVERNMENT SATISFIED?

A. AS TO MARCONA, YES. AS TO THE PERUVIAN GOVERNMENT,

OBTAINING YES, SINCE THEY HAVE SIGNED THE AGREEMENT.

Q.15. WHAT IS THE ADVANTAGE OF THE SALES AGREEMENT TO PERU?

A. THE SALES AGREEMENT ALLOWS PERU, WITH MARCONA'S HELP, TO EARN FOREIGN EXCHANGE FROM THE SALE OF ITS IRON ORE IN THE U.S. MARKET.

Q.16. WILL AID PROGRAMS NOW BE REINSTITUTED?

A. AID PROGRAMS TO PERU WERE NEVER TERMINATED. THE U.S. AID MISSION TO PERU HAS BEEN FUNCTIONING AND WILL CONTINUE TO DO SO. WE ARE IN THE PROCESS OF IDENTIFYING SPECIFIC PROJECTS AND PROGRAMS WHERE WE MAY BE HELPFUL IN FY 1977 AND BEYOND.

Q.17. WHAT IS THE EFFECT OF THE MARCONA SETTLEMENT ON OTHER OUTSTANDING DISPUTES, SUCH AS THE GULF CASE?

A. WE BELIEVE THE MARCONA SETTLEMENT WILL CREATE A CLIMATE THAT SHOULD BE CONDUCIVE TO RESOLVING ANY OUTSTANDING INVESTMENT PROBLEM, INCLUDING GULF. WE HAVE HAD ASSURANCE FROM SENIOR OFFICIALS IN THE PERUVIAN GOVERNMENT THAT THE GULF CASE WILL BE RESOLVED IN THE NEAR FUTURE.

Q.18. DOES THE SETTLEMENT OF THE MARCONA DISPUTE, WHICH IS ONLY THE MOST RECENT OF A NUMBER OF BILATERAL PROBLEMS BETWEEN THE U.S. AND PERU IN RECENT YEARS, INDICATE A NEW ERA OR CAN WE EXPECT MORE PROBLEMS IN THE FUTURE?

A. WE WOULD HOPE THAT THE MARCONA SETTLEMENT WILL CREATE A CLIMATE OF UNDERSTANDING AND COOPERATION THAT WILL AVOID DISRUPTIVE SITUATIONS BETWEEN OUR TWO COUNTRIES IN THE FUTURE. LIMITED OFFICIAL USE

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Q.19. DID THE U.S. GOVERNMENT APPLY PRESSURE ON MARCONA TO ACCEPT THIS SETTLEMENT?

A. NO BOTH PARTIES TO THE DISPUTE AGREED TO THE SETTLEMENT.

Q.20. IS THIS SETTLEMENT RELATED IN ANY WAY TO RECENT DISCLOSURES THAT PERU WAS ABOUT TO MAKE A MAJOR ARMS PURCHASE FROM THE SOVIET UNION?

A. NO. THERE IS NO RELATIONSHIP. HOWEVER, THE U.S. CONTINUES TO BE CONCERNED ABOUT ANY ARMS PURCHASES WHICH COULD POSSIBLY ESCALATE TENSIONS IN THE HEMISPHERE OR

DIVERT SCARCE FOREIGN EXCHANGE FROM ECONOMIC DEVELOPMENT PROJECTS.
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